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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,580	02/09/2001	Gerard Hotier	PET1913	5248

23599 7590 03/28/2003

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ARLINGTON, VA 22201

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/28/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

A

# Office Action Summary

Application No.

09/762,580

Applicant(s)

Hotier et al.

Examiner

Ivars Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 6, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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Upon reconsideration, particularly in view of Applicant's remarks presented in the response filed January 6, 2003, the restriction requirement advanced in the previous Office action is hereby withdrawn.

The abstract filed September 16, 2002 has not been entered because Applicant failed to provide a "marked-up" copy of this abstract showing changes made.

The disclosure is objected to because of the following informalities:

(1) the patent number given on page 13, line 13, of the specification appears to be incorrect; and

(2) the abstract contains superfluous text (i.e. title, inventors, etc.).

Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-23 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The claims still contain numerous vague and indefinite expressions. For example, the term "or a

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body" (claim 1, lines 1-2) is vague, and indefinite as to the material intended. The recitation that the enclosure or column comprises "one or more adsorbent beds" (claim 1, line 3) is deemed to be misdescriptive since it appears that more than one adsorbent bed must be present in the recited system, since claim 1 also recites (see lines 3-4) that "two adsorbent beds" are separated by a plate. The term "the fluids" (claim 1, line 5) lacks antecedent basis in the claim, and is therefore indefinite. The structural interrelationships between the "plurality of lines" (claim 1, line 7), the "bypass circuit" (claim 1, line 9), the "distribution plate" (claim 1, line 9) and the "bypass line" (claim 1, line 9) with the column containing the adsorbent beds has not been clearly recited. The term "said communication means" (claim 2, line 1) lacks antecedent basis in the claims, and is therefore indefinite. The reference character corresponding to the recited valve (claim 2, line 2) has not been enclosed by parenthesis. The term "in that the end of the bypass line that is not connected to the zone of the adsorbent bed is connected to a delivery and/or extraction line" (claim 2, lines 3-4) is indefinite since parent claim 1 recites that this line is connected to the chamber Ci. The term "said communication means" (claim 3, line 1) lacks antecedent basis in the claims, and is therefore indefinite. The term "several means intended for

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circulation of ..." (claim 4, lines 4-6) is vague, and indefinite as to the structural limitation intended. Since the fluids intended to be treated in the recited device are not structural elements of this device, the recitation of means "for communication" of these fluids (claim 4, lines 8 and 11) is vague, and indefinite as to the structural limitation intended. The term "flow section of ports intended" (claim 4, lines 11-12) is vague, and indefinite as to the limitation intended. The term "said means allowing communication" (claim 6, line 2) lacks antecedent basis in the claims, and is therefore indefinite. The term "consistS" (claim 6, line 2) appears to be a typographical error. The terms "<<Pe>>" and "<<e>>" (claim 7, line 2) are vague, and indefinite as to the limitations intended. The terms "the resting face" (claim 8, line 2) and "the liner" (claim 8, line 3) lack antecedent basis in the claims, and are therefore indefinite. The term "the end of bypass line opens into said distribution means" (claim 10, lines 4-5) is indefinite because it is not clear which end is intended, and the term "said distribution means" lacks antecedent basis in the claims. The term "the fluid distribution circuit" (claim 11, lines 1-2) lacks antecedent basis in the claims, and is therefore indefinite. The term "the fluid distribution spider" (claim 12, line 4) lacks antecedent basis in the claims, and is therefore indefinite. The

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term "the end of the bypass line connected to the adsorbent bed" (claim 13, lines 2-3) lacks antecedent basis in the claims, and is therefore indefinite. The term "diverted fluid distribution means" (claim 14, lines 3-4) is vague, and indefinite as to the limitation intended. The term "said means" (claim 14, line 4; claim 15, lines 1 and 3) is indefinite as to which means is intended, since many "means" have been previously recited. The term "according to a sequentially in order to achieve separation" (claim 18, line 5) is vague, and indefinite as to the limitation intended. The term "the enclosure" (claim 18, line 7) lacks antecedent basis in the claim, and is therefore indefinite. Claim 18 is incomplete because it fails to recite the location of the "other end" of the bypass line. Claim 21 is indefinite because it merely recites an intended use (i.e. "for separation of ..."), and fails to positively recite any process steps corresponding to this use. Process claim 22 is indefinite because it depends from an apparatus claim (i.e. claim 4).

Claims 1-23 would be allowed if rewritten or amended to overcome the above rejection under 35 U.S.C. § 112 because the references of record do not teach or fairly suggest a simulated moving bed device having a bypass line of the type recited.

French Patent No. 2,772,634 discloses a similar simulated moving bed device.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for

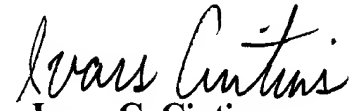
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all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
**Ivars C. Cintins**  
**Primary Examiner**  
**Art Unit 1724**

I. Cintins  
March 23, 2003